

REMARKS

I. Introduction

Claims 1-7 are currently pending in the present application after cancellation of claim 8. Claims 1 and 3 have been amended. Claims 1, 2, 4 and 6-8 have been rejected, and claims 3 and 5 have been objected to. Applicants thank the Examiner for indicating that claims 3 and 5 contain allowable subject matter. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the indication that all certified copies of the priority documents have been received.

II. Rejection of Claims 1, 2 and 6-8 **Under 35 U.S.C. § 102(b)**

Claims 1, 2 and 6-8 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,761,629 ("Gilling"). Applicants respectfully submit that Gilling does not anticipate the present claims for the following reasons.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997).

Claim 1 has been amended to incorporate the limitations of now-canceled claim 8, i.e., amended claim 1 recites, in relevant parts, "undertaking an acceleration limitation in the vehicle to be regulated when . . . a vehicle is moving at a lower speed than the vehicle to be regulated," and "**lifting the acceleration**

limitation more slowly in response to a change in conditions for the acceleration limitation, an acceleration limit increasing in a time-delayed manner.” While the Examiner cites col. 7, l. 8-10 of Gilling as teaching the above-recited feature of claim 1, the actual teachings of Gilling do not support the Examiner’s conclusion, as explained in detail below.

Gilling describes a cruise-control system for maintaining a desired range S between the controlled vehicle AICC and a target vehicle PV1. (Col. 5, l. 15-27; Fig. 3A). Fig. 3B of Gilling depicts a scenario in which “vehicle PV1 which has been running ahead of the controlled vehicle (AICC) (Fig. 3a) moves to the right into a faster lane.” (Col. 6, l. 54-57). Gilling further indicates the following: a) if the original target has moved to an outside target, then the system looks for a new far target in its own lane; b) if “there is no such target, then **speed control is re-adopted . . . , subject to the usual predetermined maximum acceleration limits (+0.03 g in this case).**” (Col. 7, l. 6-9). Accordingly, Gilling clearly discloses only a fixed maximum acceleration limit, and nothing in the above-quoted section (or any other section) of Gilling teaches or suggests the claimed feature of **“lifting the acceleration limitation more slowly in response to a change in conditions for the acceleration limitation,”** let alone teach or suggest the claimed feature of “an acceleration limit **increasing in a time-delayed manner,**” as recited in amended claim 1.

For at least the foregoing reasons, claim 1 and its dependent claims 2 and 6-7 are allowable over Gilling. Withdrawal of the anticipation rejection is respectfully requested.

III. Rejection of Claim 4 Under 35 U.S.C. § 103(a)

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gilling in view of U.S. Patent No. 6,256,574 (“Prestl”). Applicants respectfully submit that the combination of Gilling and Prestl does not render claim 4 obvious, for the following reasons.

Applicants note that claim 4 depends from claim 1. Furthermore, Prestl does not cure the above-noted deficiencies of Gilling as applied against parent claim 1, i.e., Prestl also does not teach or suggest the claimed feature of **"lifting the acceleration limitation more slowly in response to a change in conditions for the acceleration limitation, an acceleration limit increasing in a time-delayed manner."** Therefore, without passing judgment on the merits of the Examiner's contentions regarding the combination of Gilling and Prestl, Applicants submit that claim 4 is allowable over the combination of Gilling and Prestl for the reasons stated in connection with claim 1.

IV. Allowable Subject Matter

The Examiner objected to claims 3 and 5 as being dependent upon a rejected base claim, but the Examiner indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Since claim 3 has been rewritten in independent form to include the limitations of the base claim 1, Applicants submit that claim 3 and its dependent claim 5 are in allowable condition.

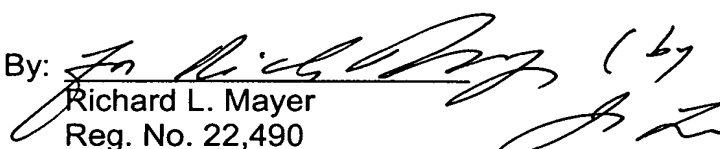
V. Conclusion

In light of the foregoing, it is respectfully submitted that all pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

Dated: September 7, 2004

By:


Richard L. Mayer
Reg. No. 22,490

KENYON & KENYON
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO 26646

Handwritten notes:
P. no.
36,197)